IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO.882 OF 2004
IN
SUMMARY SUIT NO.2528 OF 2004

VMS Engineering & Design P.Ltd. ..Plaintiffs

Vs.

Valia Chemicals P.Ltd and Anr. ..Defendants

Mr.K.K.Shroff i/b Daru Shah and Co. for the plaintiffs

Mr.Tushar Bhavsar i/b Shah and Sanghvi for the defendants

CORAM : S.U.KAMDAR, J
DATED : 27TH SEPTEMBER, 2005

P.C.:

1. The present suit is based on promissory note for Rs.3,00,000/- with interest claim totalling to Rs.4,83,266/-.

2. The defence raised in the present suit are already been covered and decided by my order dt.13.9.05 passed in Summons for Judgment No.607 of 2004 and 594 of 2004. However, the learned counsel for defendant has raised an additional issue that there is no deed of assignment for assigning the business by VMS Engineering & Design Services P.Ltd

to Valia Chemicals P.Ltd and Anr. The grievance of the defendant is that deed of assignment is not produced. Copy of deed of assignment has been handed over by the plaintiff to the defendant. However, the learned counsel for defendant contends that the said deed of assignment is not registered. Unless the assignment is of immvable property the same does not require registration u.s.17 of the Registration Act. In that view of the matter, there is no substance in the aforesaid defence also and therefore, I direct the defendants to deposit a sum of Rs.4,00,000/-within 4 weeks failing which plaintiffs will be entitled to decree. If the said amount is deposited the Prothonotary and Senior Master is directed to invest the same in any Nationalised Bank in Fixed Deposit initially for a period of 3 years and then renew the same from time to time till further orders of this court. If the amount is deposited then suit is to be transferred to the list of Commercial Causes. Written Statement or points of defence to be filed within four weeks from the date of deposit of the said amount. Affidavits, list of documents to be filed within four weeks thereafter. Inspection within

four weeks thereafter. Suit to be on board of the learned Judge taking Commercial Causes.